Supreme Court, U.S.
FILED

No. 03 758 NOV 20 2003

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In The

Supreme Court of the United States

JAMES M. CULLITON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

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59 pp

QUESTION PRESENTED FOR REVIEW

WHETHER THIS COURT SHOULD ISSUE A WRIT OF CERTIORARI BECAUSE THE NINTH CIRCUIT ERRONEOUSLY HELD THAT DEFENDANT CULLITON'S § 1001 CONVICTION FOR PROVIDING FALSE ANSWERS ON A FUNDAMENTALLY AMBIGUOUS FEDERAL AVIATION ADMINISTRATION MEDICAL FORM DID NOT VIOLATE DUE PROCESS, THEREBY DIRECTLY CONFLICTING WITH THE ELEVENTH CIRCUIT'S DECISION IN *UNITED STATES v. MANAPAT*, 928 F.2d 1097 (11th Cir. 1991), ON AN ISSUE OF EXCEPTIONAL IMPORTANCE TO OUR NATION'S PILOTS.

LIST OF PARTIES

The parties to the proceedings below were the Petitioner, James M. Culliton, and the Respondent, United States of America.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, JAMES M. CULLITON, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

In an opinion filed August 22, 2002, the Ninth Circuit reversed Culliton's judgment of conviction. Appendix 1. On the government's petition for rehearing, the Ninth Circuit vacated its original decision and issued a new opinion affirming Culliton's judgment of conviction and sentence. Appendix 2. The Ninth Circuit denied Culliton's petition for rehearing and rehearing en banc in an order filed August 25, 2003. Appendix 3. The district court did not issue any written decision concerning the issues set forth in this petition.

JURISDICTION

On April 30, 2003, the Ninth Circuit affirmed the district court's judgment of conviction in a published opinion. *United States v. Culliton*, 328 F.3d 1074 (9th Cir. 2003) (Appendix 1). After requesting and receiving an extension of time, Culliton timely filed a petition for rehearing and rehearing en banc on July 29, 2003. On August 25, 2003, the court of appeals issued an order denying the petition for rehearing and rehearing en banc. Appendix 3. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1) and this Court's Rules 13.1 and 13.3.

PROVISIONS OF LAW INVOLVED

Due Process Clause Of The Fifth Amendment to the United States Constitution

No person shall . . . nor be deprived of life, liberty, or property, without due process of law,. . . .

18 U.S.C. § 1001(a)

> (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully–
>
> (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
>
> (2) makes any materially false, fictitious, or fraudulent statement or representation; or
>
> (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;
>
> shall be fined under this title or imprisoned not more than 5 years, or both.

STATEMENT OF THE CASE

Defendant James M. Culliton was convicted after a jury trial of one count of making a false statement in violation of 18 U.S.C. § 1001 for checking "no" in three out of twenty-two medical history boxes on a Federal Aviation Administration (FAA) form 8500-8, which is used in applying for an airman's medical certificate from the FAA.

An applicant fills out the front page of the FAA form at a doctor's office immediately before a full interview and examination by the doctor. Reporter's Transcript (RT) at 149-50. The form asks the applicant to check boxes labeled either "yes" or "no" for twenty-two medical history questions and two questions about criminal convictions. The form instructs that the applicant may note in a section titled "Explanations" that he had previously reported a particular medical condition on a prior form and that the condition had not changed. *Id.* The form also instructs the applicant *not* to report common illnesses such as colds or sore throats. *Id.*

After examining and talking with the applicant, the doctor, who the FAA has designated as an aviation medical examiner, fills out the back page of the form and provides further detail of the applicant's medical history in a section titled "comments on the history and findings." RT 149, 156. In addition to the results of a routine physical examination, the doctor also reports on this back page the results of various vision exams, blood pressure, pulse, and an urinalysis. After the medical examination and interview, the examiner is asked to certify whether the applicant meets the standards for the appropriate class of medical certificate. RT 149.

In this case, in completing the FAA form in connection with a June 6, 1997 medical examination, Culliton checked the boxes marked "yes" indicating that he had suffered "frequent or severe headaches," "unconsciousness," and "other illness, disability, or surgery." Appendix 5 (FAA form 8500-8 dated June 6, 1997). He also marked "yes" to questions asking whether he had been medically rejected by the military service and had been admitted to a hospital. *Id.* The government charged Culliton with falsely

marking "no" to the three questions asking whether he had a history of (1) "eye or vision trouble except glasses," (2) "dizziness or fainting spell," or (3) "mental disorders of any sort." The indictment charged that Culliton falsely denied suffering from these conditions when in fact he had experienced "eye or vision trouble, . . . dizziness, and mental disorders, including anxiety, depression, mood changes and memory problems" from an accident in August 1995, in which his office chair broke causing him to hit his head on a credenza and temporarily lose consciousness.

At trial, Culliton testified and admitted that he had suffered in the past from medical problems caused when he hit his head in an office injury in August 1995. He explained that he disclosed his head injury in filling out the same form in 1996 where he wrote that he was "hit on head in office" and was rendered "unconscious." RT 310. During that medical interview, Culliton fully discussed his conditions and told the doctor that he had been "disoriented" after the accident. RT 315. Indeed, the doctor noted on the form that "Airman had a brief episode of LOC [loss of consciousness] when a chair collapsed" and it "represents an explainable isolated event." Trial Exh. 20. In a letter dated June 24, 1996, the FAA notified Culliton that it had concluded that his accident and resulting symptoms did not render him unfit for a second-class medical certificate, but it cautioned him that "because of [his] history of unconsciousness, operation of aircraft is prohibited at any time new symptoms or adverse changes occur or any time medication is required." RT 92-95; Trial Exh. 23. Culliton was issued a second-class medical certificate, which is required to fly as a flight engineer or cargo carrying pilot. RT 161.

When he filled out the same form again in June 1997, Culliton reported that he had suffered from "frequent or severe headaches," "unconsciousness," and checked "yes" for the box asking if he had experienced any "other illness, disability, or surgery." Appendix 5. Culliton testified that he explained orally to the medical examiner what had happened concerning the accident and that he had been rendered unconscious. RT 326. Dr. Brown, Culliton's 1997 medical examiner, had a copy of the June 24, 1996 FAA letter, and he again certified Culliton for a second-class certificate.

In this case, the federal investigation began when one of the parties to a civil suit Culliton had filed as a result of the injuries suffered from his office accident refused to settle and instead turned over Culliton's confidential medical records to its private investigators, who in turn contacted a California state investigator about instituting a criminal action. When the Sacramento County District Attorney's Office declined to prosecute, the investigator took the file to the U.S. Attorney's Office which opened an investigation. Although no fraud or other prosecution was ever brought, the Sacramento U.S. Attorney's office nonetheless filed the instant false statement prosecution charging that Culliton made false statements on a FAA 8500-8 form.

In an opinion filed October 22, 2002, the Ninth Circuit reversed Culliton's conviction under 18 U.S.C. § 1001 for making a false statement on the FAA 8500-8 form. *United States v. Culliton*, 300 F.3d 1139 (2002) (*Culliton I*), *withdrawn*, 328 F.3d 1074 (9th Cir. 2003) (Appendix 1). Following the only other circuit to address the ambiguity of questions on this form, *see United States v. Manapat*, 928 F.2d 1097 (11th Cir. 1991), the Ninth Circuit correctly

concluded that the "challenged questions on the FAA form are sufficiently confusing, vague, and overbroad as to invite selective prosecution." 300 F.3d at 1140.

On April 30, 2003, in response to the government's petition for rehearing, the court of appeals reversed course, withdrew its initial opinion, and filed a new opinion affirming Culliton's conviction. *United States v. Culliton*, 328 F.3d 1074 (9th Cir. 2003) (*Culliton II*) (Appendix 2). Conflicting with the Eleventh Circuit's *Manapat* decision and failing to follow case law barring false statement or perjury convictions for answers to excessively vague questions, the Ninth Circuit's new opinion errs in concluding that the FAA form in question is not "fundamentally ambiguous" so as to preclude a felony conviction under section 1001.

The Court should grant Culliton's petition for a writ of certiorari to correct the panel's erroneous conclusion that the questions at issue on the FAA form are not fundamentally ambiguous so as to bar a false statement prosecution. A writ of certiorari is also necessary in order to resolve a conflict with the Eleventh Circuit's contrary decision. The issue in this appeal is extremely important because the Ninth Circuit's opinion subjects all our country's pilots to the risk of unjustified prosecution in federal court whenever they in good-faith answer vague and ambiguous questions on a FAA form 8500-8, in order to obtain a required medical certificate.

REASONS FOR GRANTING THE PETITION

THE NINTH CIRCUIT'S OPINION THAT CULLITON'S FEDERAL FALSE STATEMENT CONVICTION BASED ON HIS ANSWERS TO FUNDAMENTALLY AMBIGUOUS QUESTIONS ON A FAA MEDICAL FORM DID NOT VIOLATE DUE PROCESS CONFLICTS WITH A CONTRARY DECISION BY THE ELEVENTH CIRCUIT AND PUTS OUR NATION'S PILOTS AT RISK OF UNJUSTIFIED PROSECUTION FOR MAKING INNOCENT, GOOD FAITH ANSWERS WHEN CHECKING BOXES IN RESPONSE TO VAGUE QUESTIONS ON THE FAA FORM.

Lacking evidence of any wrongdoing after a lengthy state and federal fraud investigation, the government instead charged Culliton with a single count of making a false statement in a FAA form 8500-8. Following the Eleventh Circuit and guidance from the FAA itself, the Ninth Circuit originally reversed Culliton's conviction on the ground that the questions on the form were so vague and ambiguous that principles of Due Process barred prosecution based on answers to such questions. The Court's subsequent decision to grant the government's petition for rehearing, to vacate its original opinion, and to affirm Culliton's false statement conviction conflicts with the Eleventh Circuit's rule and subjects our nation's pilots to the risk of unjustified prosecution based solely on good-faith innocent answers to ambiguous questions. Indeed, in an Amicus letter to the Ninth Circuit in connection with Culliton's petition for rehearing, the Aircraft Owners and Pilots Association expressed its concern that the Ninth Circuit's opinion "may have the future effect of finding that innocent omissions, made in good faith and in the interests of appropriate disclosure, nonetheless subjects

the individual to criminal prosecution." Appendix 4, at App. 29-30.

A. THE FAA MEDICAL FORM AT ISSUE IN THIS CASE IS SO VAGUE AND FUNDAMENTALLY AMBIGUOUS THAT AN ANSWER TO THE QUESTIONS ON THE FORM MAY NOT SERVE AS THE BASIS OF A § 1001 FALSE STATEMENT CONVICTION CONSISTENT WITH DUE PROCESS OF LAW.

In affirming Culliton's conviction, the Ninth Circuit correctly stated the general rule that when "a question is excessively vague, or 'fundamentally ambiguous,' the answer may not, as a matter of law, form the basis of a prosecution for perjury or false statement." App. 17 (citing *United States v. Ryan*, 828 F.2d 1010, 1015 (3d Cir. 1987), abrogated on other grounds by *United States v. Wells*, 519 U.S. 482, 486 n.3 (1997)); *accord United States v. Farmer*, 137 F.3d 1265, 1268 (10th Cir. 1998); *United States v. Manapat*, 928 F.2d 1097, 1099-1101 (11th Cir. 1991). "A question is fundamentally ambiguous when it 'is not a phrase with a meaning about which men of ordinary intelligence could agree, nor one which could be used with mutual understanding by a questioner and answerer unless it were defined at the time it were sought and offered as testimony." *United States v. Boone*, 951 F.2d 1526, 1534 (9th Cir. 1991) (quoting *United States v. Lighte*, 782 F.2d 367, 375 (2d Cir. 1986)).

In evaluating a "question's ambiguity, the court must consider the context in which the question was asked, as well as the potentially ambiguous wording." *Id.* Although the existence of some ambiguity in a question will not bar a perjury or false statement prosecution, *Ryan*, 828 F.2d at

1015, a jury is not entitled to guess as to the defendant's understanding of the question. *Farmer*, 137 F.3d at 1269. In some cases, an "awkwardly phrased" question "might standing alone be thought as a matter of syntax not to be fatally ambiguous," but in context "the question may take on a meaning wholly at odds with the broad" literal meaning of the question and thus preclude prosecution. *United States v. Serafini*, 167 F.3d 812, 820 (3d Cir. 1999).

Cases addressing the ambiguity of a question almost invariably arise in the context of perjury or false declaration cases. In prosecutions for perjury or false declarations under oath, the defendant is forewarned of the importance of an accurate answer by taking an oath. The oath requirement warns the declarant to give a deliberate, accurate response and the oath taker can ask the questioner for clarification of an ambiguous question. *See* 18 U.S.C. § 1621 (perjury); 18 U.S.C. § 1623 (false declaration under oath). On the other hand, a person can be charged in a § 1001 prosecution with making inaccurate or false statements in a variety of informal contexts, such as when questioned orally by federal agents or by simply checking off boxes from a list of questions on a federal form, without notice of the need for careful, accurate answers. Thus, there is even greater reason in false statement prosecutions than in perjury or false declaration cases to strictly construe ambiguous questions against the government in order to prevent prosecutions based solely on unintentional or careless answers. *See United States v. Bass*, 404 U.S. 336 (1971) (ambiguous statutes construed strictly in favor of the defendant under rule of lenity); *United States v. Rowe*, 144 F.3d 15, 21-22 (1st Cir. 1998) (principles underlying rule of lenity applied in interpreting potentially

ambiguous questions in a prosecution for making false statements in a bankruptcy proceeding).

In this case, the government prosecuted Culliton for making check marks in three boxes on a FAA form that asked whether the applicant for an aviation medical certificate had ever suffered from "dizziness or fainting spell," "eye or vision trouble except glasses," or any "mental disorders of any sort: depression, anxiety, etc." The government charged Culliton with falsely denying that he had ever experienced these medical conditions when in fact he had suffered these conditions as a result of an office accident in 1995.

In the context of a full medical examination, these questions are inherently ambiguous and it is unfair to prosecute an individual for purportedly making a false statement simply for checking the "no" boxes to a few vague medical questions. It is undisputed that the form is not used by the FAA as a final medical report to determine whether an applicant is fit to fly; rather, the form is a preliminary screening tool for further discussion between the applicant and the medical examiner, who also subjects the applicant to various medical tests. RT 150, 156, 181-82. The form does not define any of the terms at issue. Moreover, many of the questions address overlapping or related medical conditions, such that affirmatively answering one question adequately brings the issue to the attention of the medical examiner for further discussion. *Compare* question (b) (dizziness or fainting) *with* question (c) (unconsciousness for any reason); question (e) (hay fever or allergy) *with* question (f) (asthma or lung disease).

In this context, the Ninth Circuit's *Culliton II* opinion explains that, as the government concedes, "the Form's

questions are capable of rendering innocent responses objectively false." App. 19. Almost everyone has experienced at some time in the past some form of dizziness, eye problems, or mental condition. Who has not been temporarily dizzy in one form or another? Has not everyone felt "anxious" or "depressed" at one time in their lives? Under a literal interpretation of the form, every applicant would check "yes" to each of the three questions Culliton was charged with falsely answering so that these questions would be rendered meaningless for their intended screening purpose.

Instead, the medical questions on the FAA form presuppose a significant amount of interpretation by the applicant as to what constitutes a sufficiently serious condition as to warrant reporting on the form. Dr. Silberman, a physician and manager at the FAA, testified for the government that the meaning of various questions and medical conditions is "up to the airman." RT 198, 200-01. He testified that what constitutes sufficient "dizziness" so as to be reportable on the form is to be determined by the applicant. RT 200 ("'Dizziness or fainting spells,' that again is up to whatever the airman thinks that means."); RT 205 ("If [vertigo] was consistent and affected the airman I would expect him to say something, but if it might have been just one episode you might not say something."); RT 205-06 (agreeing that "[i]f it was a one-time episode you wouldn't want them to be misdiagnosed and create a problem").

The Ninth Circuit's *Culliton II* opinion wrongly minimized the form's ambiguity by asserting that Culliton raised only hypothetical or technical challenges to the form's questions. App. 20-21. In fact, Culliton unquestionably did provide a reasonable, innocent explanation at

trial, and he did fully disclose his office accident and the symptoms resulting from it. Culliton had been a pilot for many years and had filled out over thirty FAA 8500-8 forms to obtain or renew his medical certificate. RT 309. In the form submitted with the medical evaluation in January 1996, Culliton fully disclosed his head injury and the fact that he had been rendered "unconscious" and treated at Kaiser hospital. Trial Exh. 20. He also discussed his symptoms with the examiner, Dr. Moore, who reported in his "comments and findings" that Culliton "had a brief episode of LOC [loss of consciousness] when a chair collapsed." *Id.* Aware of his office accident and the medical conditions he suffered as a result, the medical examiner concluded that the incident "represents an explainable isolated event." *Id.* By letter dated June 24, 1996, the FAA notified Culliton that it would issue him a second-class medical certificate, though it cautioned him that "because of [his] history of unconsciousness, operation of aircraft is prohibited at any time new symptoms or adverse changes occur or any time medication is required." RT 92-95; Trial Exh. 23.

When he returned for a medical examination the next year to renew his medical certificate, Culliton checked the boxes "yes" to indicate that he had experienced "frequent or severe headaches" and "unconsciousness." Appendix 5. Culliton testified that he discussed the accident and his symptoms again during the June 1997 medical evaluation. RT 326. He told the doctor "what had happened with regard to the accident, and that [he] had been unconscious." RT 326. And in the explanations section, Culliton wrote that he had previously reported these conditions and there had been no change from the previous form. Appendix 5. Culliton's 1997 examiner testified that he

possessed a copy of the FAA's June 1996 letter in which the FAA notified Culliton that it would issue him a second-class medical certificate. RT 92-95. The doctor testified that the letter demonstrated that Culliton "was completely honest and up front when he told me that he had reported it to the FAA; that they considered these conditions, because they even mentioned it in this particular letter." RT 95.

Nonetheless, the government charged Culliton with making a false statement for filling out the FAA form in 1997 by checking boxes "no" that asked whether he had suffered from dizziness, eye or vision trouble, or "mental disorders of any sort." With respect to dizziness, Culliton told the examiner that "for a while I did have severe dizziness. But Kaiser finally said that all it was was a sinus attack, and sinusitis. . . . I discussed all this with Dr. Brown [the 1997 examiner], that it was a sinus attack that caused dizziness." RT 327-28. With respect to the question that asked about eye or vision trouble *except glasses*, Culliton testified that he had some vision problems after his accident but "when I got the glasses the blurriness goes away. There are no spots." RT 340. After his accident, Culliton did report to his doctor that he believed his eyes had locked up one time, but two doctors examined him and told him there was nothing wrong with his eyes. RT 341-43.[1]

[1] Although Culliton's color blindness literally qualifies as a "vision problem," Dr. Silberman testified that the FAA knew of this problem and had granted Culliton a waiver. So although Culliton checking "no" over the years to the vision problem question on numerous FAA 8500-8 forms would be false if the question was interpreted literally, the FAA

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Similarly, this case perfectly illustrates the "fundamental ambiguity" in the question asking an applicant whether he or she has ever suffered from "mental disorders of any sort: depression, anxiety, etc." The government contended that Culliton's negative response was false because after his accident he reported to his doctor feeling depressed and anxious over the situation. But Culliton explained that the doctor told him something to the effect that "you're just depressed over the whole thing." RT 351. Culliton added that he was never aware of "any diagnosis from any doctor, from any health care facility given to me that I had clinical depression." RT 352. He was not prescribed any medication for depression, except that he was given an anti-depressant as a sleeping aid, not to combat depression. *Id.* Because Culliton had previously reported the office accident and no longer suffered from eye problems, dizziness, or any known mental disorder, he believed he had answered fully truthfully.

B. THE NINTH CIRCUIT'S DECISION IN THIS CASE CONFLICTS WITH THE RULE OF THE ELEVENTH CIRCUIT AND THE POSITION OF THE FEDERAL AVIATION ADMINISTRATION.

The FAA itself and the Eleventh Circuit's opinion in *United States v. Manapat*, 928 F.2d 1097 (11th Cir. 1991), have recognized the inherent ambiguity in the FAA form at issue in this case. A 1987 FAA memorandum explained that the FAA "need[s] to think about changing the form

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"knew what the problem was so we didn't bother him with it." RT 204-05. Indeed, the government did not charge Culliton with making this so-called "false" statement.

and substance of the questions asked in the Form 8500-8" because "[i]t has not generally been possible to successfully prosecute people in the past in part because of the vague, qualitative, and evaluative nature of these questions." *Broderick Memorandum*, 2/17/1987 (cited in *Culliton II*, at App. 19-20, and *Manapat*, 928 F.2d at 1101 n.3).

Moreover, in *Manapat*, the Eleventh Circuit affirmed the district court's order dismissing a false statement indictment on the ground that the same FAA form at issue here was fundamentally ambiguous as a matter of law. There, the indictment charged the defendant with falsely checking "no" to two questions that asked about traffic or other convictions. The Eleventh Circuit concluded that the questions "are too ambiguous to allow a jury to speculate as to the defendant's intentions at the time she filled out the application form." 928 F.2d at 1100-1101. Although the decision focused on questions asking about criminal convictions and their placement on the form rather than questions about medical conditions as in this case, the *Manapat* opinion expressed concern about the ambiguity of *all* the questions on the form. 928 F.2d at 1099 (quoting district judge, "I think it is fundamentally unfair to base a felony prosecution on any answers that may be given by anybody on this form"). Indeed, the subjective nature of questions about medical conditions more strongly supports dismissal for ambiguity than questions asking whether one has ever been convicted of a traffic or other criminal offense.[2]

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[2] The FAA 8500-8 form at issue in *Manapat* and the current form used in this case contain *identical* questions. The only difference is that the current version has the two criminal history questions placed

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C. THE NINTH CIRCUIT'S OPINION SUBJECTS OUR NATION'S PILOTS TO THE RISK OF UNJUSTIFIED PROSECUTION SIMPLY FOR CARELESSLY CHECKING BOXES ON A VAGUE AND CONFUSING FAA MEDICAL FORM.

In connection with Culliton's petition for rehearing, the Aircraft Owners and Pilots Association (AOPA) submitted an Amicus letter with the Ninth Circuit addressing AOPA's concerns with that court's opinion and the decision's effect on the more than 400,000 individual pilots and aircraft owners that comprise AOPA's membership. Appendix 4, at App. 28-31. In particular, the AOPA stated that it "fears that the Court's decision in this case could set a precedent under which future respondents may be convicted for answering questions to the best of their knowledge and ability, with every intention of giving complete and accurate answers, but the answer is determined to be objectively false." App. 29. As the Association explained to the Ninth Circuit about the form:

> Practically speaking, though, innocent omissions may easily occur because the instructions are not clear so as to limit the scope of the answer the question is attempting to elicit and because of an individual's natural tendency not to disclose each and every circumstances that could arguably fit within the language of the question, nor would the FAA want or expect them to reveal each and every circumstance, even if each could be explained away in a separate space or page. This

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directly below the medical history questions where the earlier version of the form had the two criminal history questions placed near the end of the medical history section.

> Court's 2003 decision may have the future effect of finding that innocent omissions, made in good faith and in the interest of appropriate disclosure, nonetheless subjects the individual to criminal prosecution.

App. 29-30. Thus, the Court should grant a writ of certiorari because the Ninth Circuit's opinion places our country's pilots in unwarranted danger of prosecution for good-faith, innocent answers that turn out to be objectively false.

Finally, reversing Culliton's conviction would not in any way hamper the FAA's ability to police applicants' fitness to serve as airmen or administratively prosecute those who provide false information on its forms. As the Eleventh Circuit explained in *Manapat*, its holding means only "that the government may not provide someone with a confusing and ambiguous form and then prosecute when the answers are ambiguous." 928 F.2d at 1102. Indeed, the FAA has an administrative board and procedures in place to evaluate medical certificate determinations and other aviation related decisions. Its regulations include a rule against the making of a false statement on a FAA 8500-8 form as a ground for not granting or revoking a medical certificate. *See* 14 C.F.R. § 67.20(a)(1). Even if the instant prosecution is held barred under principles of due process, the FAA may still refuse to grant a medical certificate, or revoke a certificate already granted, if Culliton or any applicant is found to have falsely responded to an answer on the form or some other government request for information.

CONCLUSION

For the reasons stated above, the Court should grant the petition for a writ of certiorari.

Dated: November 20, 2003

Respectfully submitted,

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